

OCT 28 2009

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES E. BAKER,

Defendant - Appellant.

No. 09-30117

D.C. No. 4:08-CR-00092-SEH

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Montana  
Sam E. Haddon, District Judge, Presiding

Submitted October 13, 2009<sup>\*\*</sup>

Before: B. FLETCHER, LEAVY, and RYMER, Circuit Judges.

James E. Baker appeals from the 15-month sentence imposed following his  
guilty-plea conviction for failure to disclose material information/federal job

---

<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). To the extent that Baker's "Statement Regarding Oral Argument" may be construed as a request for oral argument, we deny his request.

training program, in violation of 18 U.S.C. § 1001(a)(1). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Baker contends that the district court erred by applying a six-level upward adjustment, pursuant to U.S.S.G. § 2B1.1, for amount of loss. The record reflects that the district court's factual findings with respect to the amount of loss were supported by a preponderance of the evidence. *See United States v. Armstead*, 552 F.3d 769, 776 (9th Cir. 2008) (applying preponderance standard).

Baker also contends that the sentence imposed did not comport with the requirements of 18 U.S.C. § 3553(a). This contention lacks merit. The district court conducted a well-reasoned and thorough evaluation of the § 3553(a) factors prior to imposing a sentence within the Guidelines range. The district court did not procedurally err and the sentence imposed is substantively reasonable. *See Gall v. United States*, 128 S. Ct. 586, 596-97 (2007); *see also United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc).

**AFFIRMED.**